

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

PAUL T. PAPADAKIS,

Plaintiff,

-against-

CSX TRANSPORTATION, INC.,

Defendant.

U. S. DISTRICT COURT
N. D. OF N. Y.
FILED
JUN - 4 2004

(3)

AT _____ O'CLOCK _____ M
LAWRENCE K. BAERMAN, Clerk
UTICA

ANSWER

Civil Action No.: 04-CV-285

DNH/DRH

GA 04-30189-MAP

Defendant, CSX Transportation, Inc., by its attorneys, McNamee, Lochner, Titus & Williams, P.C. as and for its answer to plaintiff's complaint, states as follows:

COUNT I

1. With respect to the paragraph designated "1" of Count I of plaintiff's Complaint, defendant admits that it has a place of business within the Northern District of New York. Defendant denies the remainder of the allegations contained therein.

2. With respect to the paragraph designated "2" of Count I of plaintiff's Complaint, defendant admits that it was a common carrier engaged in the business of interstate commerce. Defendant denies the remainder of the allegations contained therein.

3. Defendant denies the paragraphs designated "3" and "4" of Count I of plaintiff's Complaint.

COUNT II

4. With respect to the paragraph designated "1" of Count II of plaintiff's Complaint, defendant admits that it has a place of business within the Northern District of New York. Defendant denies the remainder of the allegations contained therein.

E C F D O C U M E N T

I certify that this is a printed
copy of a document which was
electronically filed with the
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK.
LAWRENCE K. BAERMAN, CLERK

Dated:

By:

9/2/04
Deputy Clerk

5. With respect to the paragraph designated "2" of Count II of plaintiff's Complaint, defendant admits that it was a common carrier engaged in the business of interstate commerce. Defendant denies the remainder of the allegations contained therein.

6. Defendant denies the paragraphs designated "3" and "4" of Count II of plaintiff's Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

7. The injuries and damages, if any, described in the complaint were caused and/or contributed to by plaintiff's own negligence, lack of ordinary care, and wrongful conduct, and without any negligence on the part of defendant contributing thereto.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

8. Plaintiff has failed to mitigate his damages.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

9. Defendant is entitled to an offset for any benefits received by plaintiff from collateral sources, including, but not limited to, benefits received pursuant to the Railroad Retirement Act.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

10. Plaintiff's injuries and damages, if any, were caused, in whole or in part, by a pre-existing condition, or other contributory or concurrent conditions or factors, including events occurring prior or subsequent to the incident alleged in the complaint.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

11. Plaintiff's complaint has split a single cause of action.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

12. Plaintiff's complaint should be dismissed as the venue of this action is improper and/or inconvenient.

WHEREFORE, defendant CSX Transportation, Inc., respectfully requests judgment herein dismissing plaintiff's complaint, together with costs and disbursements of this action, and such other and further relief as the court may deem just and proper.

DATED: June 4, 2004

MCNAMEE, LOCHNER, TITUS
& WILLIAMS, P.C.

BY: s/ _____
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